



2100 Pennsylvania Avenue, NW  
Washington, DC 20037-3213

T 202.293.7060  
F 202.293.7860

[www.sughrue.com](http://www.sughrue.com)

**Michael R. Dzwonczyk**

T 202.857.3233  
[mdzwonczyk@sughrue.com](mailto:mdzwonczyk@sughrue.com)

September 14, 2017

**VIA ECF**

The Honorable William C. Bryson  
United States Court of Appeals  
for the Federal Circuit  
717 Madison Place N.W.  
Washington, DC 20005

**Re: *Allergan, Inc. v. Teva Pharmaceuticals USA, Inc.*,  
Lead Case No. 2:15-cv-1455 (E.D. Tex.)**

Dear Judge Bryson:

We represent Akorn, Inc. in the above-referenced litigation, and we write on behalf of Defendants Akorn, Teva and InnoPharma.

Last Friday, September 8, plaintiffs advised Your Honor that a number of Allergan patents, including the recently litigated Restasis® patents, were assigned to the St. Regis Mohawk Tribe. (D.I. 480-1). Plaintiffs added that they would seek to join the Tribe as co-Plaintiff in this litigation “in due course,” and that the assignment was not expected to have any impact on this case or the issues presently before the Court. *Id.* But it is not clear to Defendants that such is the case.

It has now been nearly a week, and Allergan has not taken any further action to join the Tribe nor is there any indication when Allergan expects to do so. Allergan has also not done anything to explain the purpose for seeking to join the Tribe at this time, which is especially confounding given Allergan’s statement that joining the Tribe will have no impact on the litigation. In short, what precise action Allergan intends to take, and its purpose for doing so, remain undisclosed. Like the Mylan defendants (*see* D.I. 481), Akorn, Teva and InnoPharma are still investigating the potential impact of any proposed joinder and will consider and respond to whatever motion or other action Allergan may ultimately decide to take. In the meantime, to avoid the possibility of any delays, Defendants are willing to meet with Your Honor should the Court believe that would be helpful.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Michael Dzwonczyk', written over a horizontal line.

Michael Dzwonczyk